IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO.238 OF 1991

M/s. Cosmos Enterprises. ..Plaintiff.
Vs.
Mahanagar Telephone Nigam Ltd. ..Defendant.

Ms. S.N. Nath i/by S.P.Kanuga for the Plaintiff.

Ms. S.I. Shah for the Defendant.

CORAM : A.M.KHANWILKAR, J.
DATE : 25th October, 2007.

P.C.

1. Heard learned counsel for the parties.

2. The present suit has been filed by the plaintiff challenging the demand bill in respect of telephone charges claimed by the defendant (MTNL) being excessive one. The dispute so raised is squarely covered by the provisions of Section 7B of the Indian Telegraph Act,1885. That position is not disputed by the counsel for the plaintiff. In such a case, reference of dispute to arbitration under Section 7B of the Act is imperative.

3. A priori, in view of the mandate of Section 7B of the Act, as expounded by the Apex Court in the case of **Telecom District Manager Goa and ors.Vs. V.S. Dempo & Co. and ors. reported in A.I.R. 1996 S.C. 1545,** it

is appropriate that the dispute raised in the present suit is referred to Arbitration. The reference to arbitration is for determination of dispute under Section 7B of the Act, which is a statutory remedy.

4. The defendant No.1-Central Government shall take steps to notify the Arbitrator who in turn will try and decide the arbitration proceeding in terms of Section 7B of the Act. That be done within eight weeks from today.

5. The defendant-M.T.N.L. shall apprise the Central Government for taking expeditious steps in the matter so that the Arbitrator is appointed within eight weeks from today.

6. It is further observed that the Arbitrator so appointed by the Central Government shall conclude the arbitration proceeding within six months from the date when he enters upon arbitration or the date on which the respective parties are expected to make first appearance before him, whichever is earlier.

7. The interim arrangement already ordered by this court shall continue till the disposal of the arbitration proceeding or till the same is modified or varied by the Arbitrator, if and when such occasion arises.

8. It is made clear that all issues raised in the present suit at the instance of either party shall be considered on merits in accordance with law in the arbitration proceedings.

9. Suit is disposed of in the above terms. Refund as per rules.

(A.M. KHANWILKAR, J.)